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Congress of the United States
House of Representatives
Washington, DC 20515-2107

April 16, 2004

The Honorable Clark Kent Irvin
Inspector General
U.S. Department of Homeland Security
Washington, DC 20528

Dear Mr. Kent:

I am writing regarding an article in the forthcoming May/June 2004 issue of *Sierra* reporting that a mining company headquartered in Colorado named Echo Bay Mines Limited, which has subsequently been acquired by Kinross Gold Corporation, knowingly provided millions of dollars to terrorist organizations in the Philippines that have links to Al Qaeda (see Attachment 1).

According to the article, the Department of Homeland Security (DHS) and Department of Justice (DOJ) were presented with information about these activities, but chose to do nothing to prosecute Echo Bay Mines. As you know, U.S. law has prohibited "material support" and "providing something of value" to terrorists since 1994, and the definition of what constitutes such support was expanded in 1996 and again in 2001 as part of the USA PATRIOT Act.

I am concerned that this particular company may have supplied funds and materiel to known terrorists associated with Al Qaeda in violation of U.S. law. I also am concerned that, despite receiving extensive documentation from an Echo Bay project manager with first-hand knowledge of these transactions, DHS and DOJ have not initiated an active, full-scale investigation. Moreover, the Echo Bay matter raises the possibility that there may be additional mining, oil, gas, and other companies operating all over the world that are knowingly or unwittingly providing material support to terrorists with impunity.

These support relationships, which often result from corporations' efforts to secure their operations in dangerous environments, may already have funded terrorist attacks against Americans. The Bush Administration must take strong and immediate steps to ensure that no corporation compromises the security and safety of the American people in order to secure its assets. Supporting terrorists must never be considered just another "cost of doing business."

As you know, the Philippines has long been a hotbed of radical Islamic terrorist activities. Jemaah Islamiyah was allegedly behind the October 12, 2002 bombing that killed 202 people at a Bali nightclub, and Abu Sayyaf has been

implicated in the kidnappings and murders of several Americans. In fact, an April 11, 2004 article in the New York Times stated that "the Bush administration has quietly warned the Philippine government that it has not been doing enough to crack down on terrorist groups in the country." The article went on to state that "the United States had given the Philippines intelligence that should have led to the arrest of suspected terrorists, including the leader of Abu Sayyaf, and the Philippine government did not act, one Western diplomat said."

On October 26, 2001, President Bush signed the USA PATRIOT Act into law. The PATRIOT Act added "providing material support to terrorists" to the list of federal crimes of terrorism. It extended the statute of limitations for such crimes from five years to eight years, or to an unlimited time if the commission of the offense created a risk of death or bodily injury. The PATRIOT Act also amended the International Emergency Economic Powers Act to allow the seizure of assets in cases of suspected material support to terrorists. For example, in November 2001, the Treasury Department froze the assets of Al-Barakat, an international money transmitting entity, thought to be funneling funds to Al Qaeda, *United States v. Abdi*, 342 F.3d 313, 315 (4th Cir. 2003). According to the Sierra article, 57 entities have been charged with crimes involving material support for terrorist organizations as of February 2004, and all of these entities have ideological or religious ties to other Arab organizations. However, the article also states that "no mining companies or other non-Arab-related enterprises were on the list."

The Sierra article reports that Echo Bay Mines Limited, a Denver-headquartered Canadian-chartered company that operated the KingKing mine on the Southern Philippine island of Mindanao, first began providing cash, supplies and weapons to Abu Sayyaf, the Moro National Liberation Front (MNLF), Moro Islamic Liberation Front (MILF), the New People's Army (NPA) and the Lost Command in 1995 in return for "good community relations". Some of these groups had been labeled by the U.S. State Department as terrorist groups in the mid-1990s; however, the article states that Echo Bay Mines Limited continued to meet with, fund and equip these groups even after this took place. The article reports that in September 1997, "security donation expenses" to insurgent groups totaled \$116,914, and a whistleblower - Allen Laird, who is a former employee of Echo Bay quoted in the article - estimated that over the course of the project, Echo Bay paid more than \$1.7 million to these terrorist groups.

In April 2003, Allen Laird met with Special Agent Matthew Peterson of the Department of Homeland Security. Mr. Laird provided a summary of the material aid given to terrorists by Echo Bay, and offered to provide additional information. Mr. Peterson apparently never requested the additional information. Instead, according to the article, Mr. Laird received an email from Mr. Peterson on January 8, 2004, which stated that the statute of limitations had expired and that there was "no prosecutive venue available even if the allegations were proven." It is my understanding that the decision not to prosecute came after some

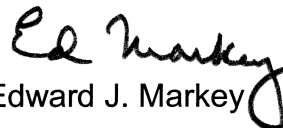
months of indecision, and that U.S. Attorney Thomas O'Rourke in the Denver, CO office made the final determination.

This case, if true, represents a stunning example of a U.S.-based company that knowingly provided considerable material support to known terrorist organizations, with absolutely no consequences. In 2002, President George W. Bush said "If you harbored a terrorist, if you fed a terrorist, if you hid a terrorist, you're as guilty as a terrorist." I agree. I am concerned, however that this standard may not be applied consistently, and therefore ask that you immediately commence an investigation into the Department's handling of this matter, including but not limited to:

- a) Whether the Department thoroughly investigated the matter.
- b) Whether the components of the Department charged with investigating crimes of providing material support to terrorists are actively engaged in determining whether other US-headquartered companies, particularly those with no religious or ideological tied to Islamic terrorist organizations, may be providing material support to these groups.
- c) Whether Echo Bay received any benefits from the U.S. government through tax incentives, loan guarantees, or other such subsidies in support of its operations in the Philippines?

Thank you very much for your prompt attention to this important matter. Please complete your investigation of this matter no later than Friday May 7, 2004. If you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff of my staff at 202-225-2836.

Sincerely


Edward J. Markey